

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DEAN JAMES SANDERS,

Petitioner,

v.

BRAD CAIN, Superintendent, Snake River
Correctional Institution,

Respondent.

Case No. 2:17-cv-2001-SB

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION**

Michael H. Simon, District Judge.

U.S. Magistrate Judge Stacie Beckerman issued Findings and Recommendation in this case on May 22, 2020. ECF 43. Judge Beckerman recommended that the Court deny Sanders’ habeas petition and issue a certificate of appealability on Sanders’ ineffective assistance of counsel (“IAC”) claim. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

In addition, for those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Beckerman’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Magistrate Judge Beckerman’s Findings and Recommendation, ECF 43. Sanders’ petition for writ of habeas corpus (ECF 1) is **DENIED**, and the Court issues a certificate of appealability only for Sanders’ claim of ineffective assistance of counsel.

IT IS SO ORDERED.

DATED this 8th day of June, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge